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January 3, 2011

The Honorable Bernard Zimmerman  
United States Magistrate Judge

**Re: Digby v. Image, Et al. C10-0617 SC (BZ)  
Plaintiffs Use of Subpoenas Without Notice To Defendants**

Honorable Magistrate Judge Zimmerman:

Plaintiffs have engaged in a pattern of improper discovery practice, including but not limited to the delivery of Subpoenas to third parties without noticing counsel for Defendants.

My client was informed by "Hotels For Sale NYC" ("Hotels") that Plaintiffs delivered a Subpoena regarding Hotels Google account. Additionally, Google has demanded that they receive a formal objection filed in this Court on or before February 3, 2011.

Because Plaintiffs have failed to furnish the undersigned with a copy of the foregoing Subpoena I am forced to make this objection regarding the above referenced Subpoena to your Honor.

I specifically informed counsel for Plaintiffs that this office does not agree to discovery by e-mail, notwithstanding the foregoing, the Plaintiffs have sent the following Subpoenas to third parties without properly noticing Defendants:

**Alexander Almonte, Esq. P.C.**

**Kline Van and Specialty Rental, LLC**

**Mastercard International Incorporated**

**American Express Company**

The foregoing discovery demands were never served on counsel for Defendants but rather sent by e-mail under the heading "Sumeena Birdi" which originally went into the Junk Mail Box of the undersigned. Defendants' have the right to receive timely and proper notice regarding Subpoenas.

Wherefore, the Defendants request that Plaintiffs be precluded from using any information garnered regarding the foregoing Subpoenas, that Plaintiffs be sanctioned due to their failure to furnish Defendants with proper notice of the foregoing Subpoenas, and such other relief as this Court may deem just and proper.

Respectfully,  
/ s /  
Levi Huebner

LH:eh